

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION**

STATE OF TEXAS; STATE OF
LOUISIANA,

Plaintiffs,

v.

The UNITED STATES OF AMERICA;
ALEJANDRO MAYORKAS, Secretary of the
United States Department of Homeland
Security, in his official capacity; UNITED
STATES DEPARTMENT OF HOMELAND
SECURITY; TROY MILLER, Senior Official
Performing the Duties of the Commissioner of
U.S. Customs and Border Protection, in his
official capacity; U.S. CUSTOMS AND
BORDER PROTECTION; TAE JOHNSON,
Acting Director of U.S. Immigration and
Customs Enforcement, in his official capacity;
U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT; TRACY RENAUD,
Senior Official Performing the Duties of the
Director of the U.S. Citizenship and
Immigration Services, in her official capacity;
U.S. CITIZENSHIP AND IMMIGRATION
SERVICES,

Defendants.

Civ. Action No. 6:21-cv-00016

PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiffs submit this Notice of Supplemental Authority to advise the Court of the Supreme Court's recent decision in *Johnson v. Guzman Chavez*, No. 19-897, 2021 WL 2653264 (U.S. June 29, 2021), which interpreted both 8 U.S.C. § 1226(c) and 8 U.S.C. § 1231(a)(2).

In this case, the parties dispute whether those provisions mandate detention of covered aliens. Plaintiffs argue they do. *See* ECF 18 at 13–16, 18–19. Defendants, on the other hand, contend that “[n]either § 1226(c) nor § 1231(a)(2) impose a mandatory duty to detain any noncitizen.” ECF 42 at 22.

In *Guzman Chavez*, the Supreme Court confirmed that both provisions are mandatory. For aliens covered by Section 1226(c), “detention is mandatory and release is permitted in very limited circumstances.” *Guzman Chavez*, 2021 WL 2653264, at *3 n.2 (citing 8 U.S.C. § 1226(c)). Similarly, for aliens covered by Section 1231(a)(2), “detention is mandatory” “during the removal period.” *Id.* at *4 (citing 8 U.S.C. § 1231(a)(2)).

Date: July 1, 2021

Respectfully submitted.

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CERTIFICATE OF COMPLIANCE

I certify that the total number of words in this response, exclusive of the matters designated for omission, is 163, as counted by Microsoft Word.

/s/ Patrick K. Sweeten
PATRICK K. SWEETEN

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing document was filed electronically (via CM/ECF) on July 1, 2021, which automatically serves all counsel of record who are registered to receive notices in this case.

/s/ Patrick K. Sweeten
PATRICK K. SWEETEN